



Protecting Our Natural Resources

Complying with the Wild and Scenic Rivers Act, Farmland Protection Policy Act, and Endangered Species Act



Logistics

- Presentation will last approximately one hour, followed by 30 minutes of questions
- Recording of entire environmental webinar series will be posted on HUD's Office of Environment & Energy website by October 2012
- Audience members are muted due to the high number of participants



Audio Issues

- Phone number: 866-893-1635 **or** listen through your computer
- If you have technical difficulty with this webcast, try:
 - Logging off, then logging back in again
 - Requesting help through the Q&A Box that will appear on your screen

How to Submit Questions

- Type your questions in the Q&A box that will appear on your screen during the presentation
 - Technical questions will be addressed right away
 - Content questions will be answered after the presentation

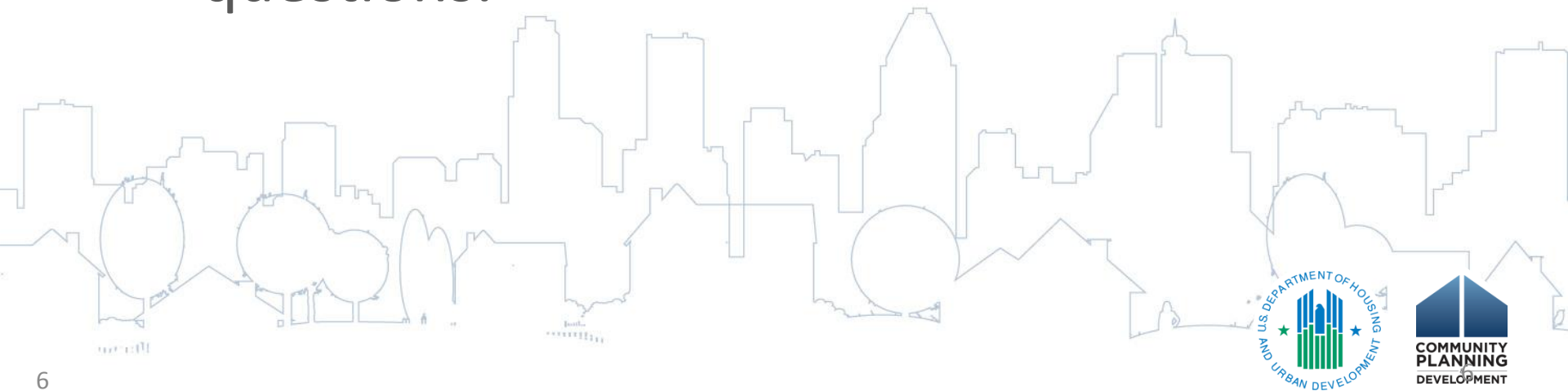


Logistics

- Three Acts
 - Opportunity for questions after each Act
1. Wild and Scenic Rivers Act: Sara Jensen, Region 10 Field Environmental Officer
 2. Farmland Protection Act: Deborah Peavler-Stewart, Region 10 Regional Environmental Officer and Chris Hoffer, Presidential Management Fellow
 3. Endangered Species Act: Elizabeth Zepeda, Environmental Specialist

Learning Objectives

- Receive an overview of the three Acts
- Understand compliance requirements for HUD projects
- Know where to go for resources and questions.



Wild and Scenic Rivers Act



Wild and Scenic Rivers Act

Three classifications:

Wild

Scenic

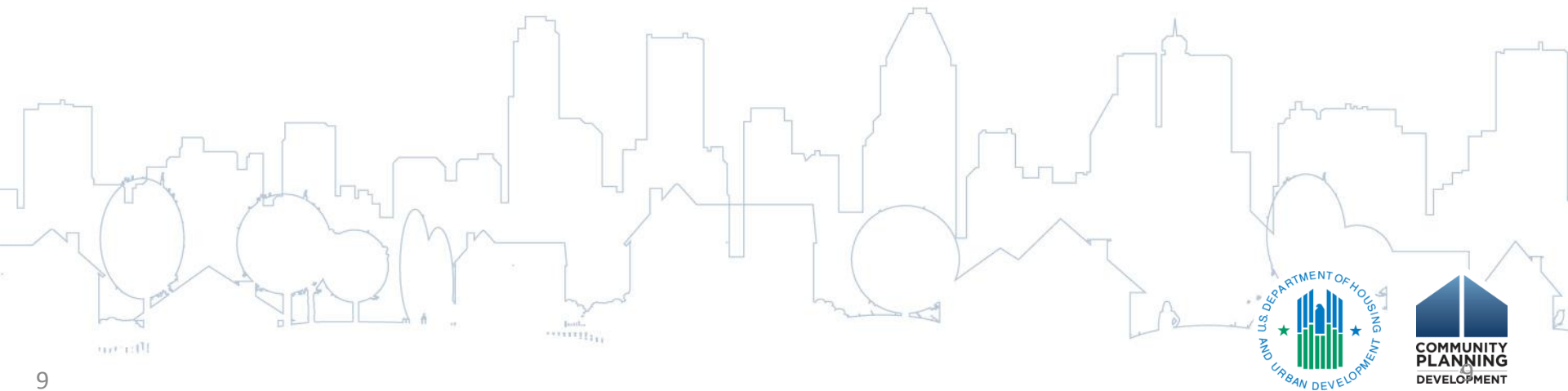
Recreational



Wild and Scenic Rivers Act

Wild and Scenic River Act Protection: (16 U.S.C. 1271-1287)

- Management (Section 10)
- Water Rights (Section 13)
- Protection from Federal Activities (Section 7)



Section 7 Compliance Steps

- 1) Determine if your project is near a Wild and Scenic River
 - a) Designated Wild and Scenic Rivers
 - b) Study Wild and Scenic Rivers

<http://www.rivers.gov/rivers/>



EXPLORE DESIGNATED RIVERS

Washington



SKAGIT RIVER, WASHINGTON

Managing Agency:

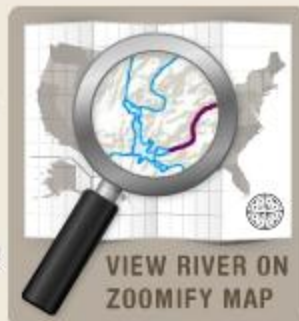
U.S. Forest Service, Mt. Baker-Snoqualmie National Forest

Designated Reach:

November 10, 1978. The segment from the pipeline crossing at Sedro-Wooley upstream to and including the mouth of Bacon Creek. The Cascade River from its mouth to the junction of its North and South Forks; the South Fork to the boundary of the Glacier Peak Wilderness Area. The Suiattle River from its mouth to the boundary of the Glacier Peak Wilderness Area at Milk Creek. The Sauk River from its mouth to its junction with Elliott Creek. The North Fork of the Sauk River from its junction with the South Fork of the Sauk to the boundary of the Glacier Peak Wilderness Area.

Classification/Mileage:

Scenic — 100.0 miles; Recreational — 58.5 miles; Total — 158.5 miles.



EXPLORE DESIGNATED RIVERS



Choose a State

Choose a River

Salmon, Native American culture, history, whitewater boating, unmatched beauty, world-renowned fishing, solitude, what don't Northwest rivers offer in abundance?



Section 7 Compliance Steps

2) Determine if your project is a Water Resources Project

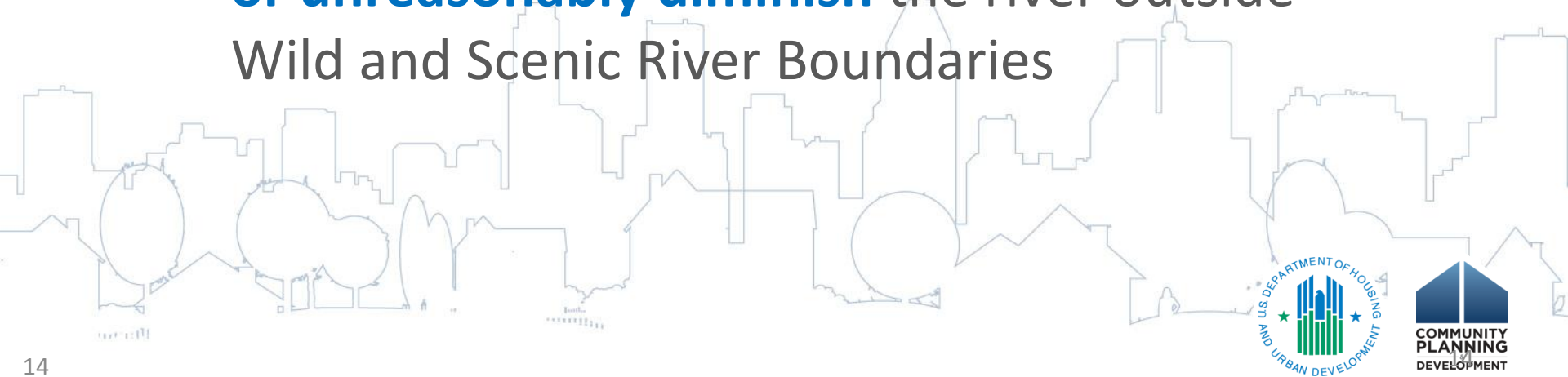
- Water Resources Project: federally assisted project that could affect the free-flowing condition of a WSR
- Examples: dams, water diversion projects, bridges, roadway construction, boat ramps, activities that require a Section 404 permit from the Army Corps.

Section 7 Compliance Steps

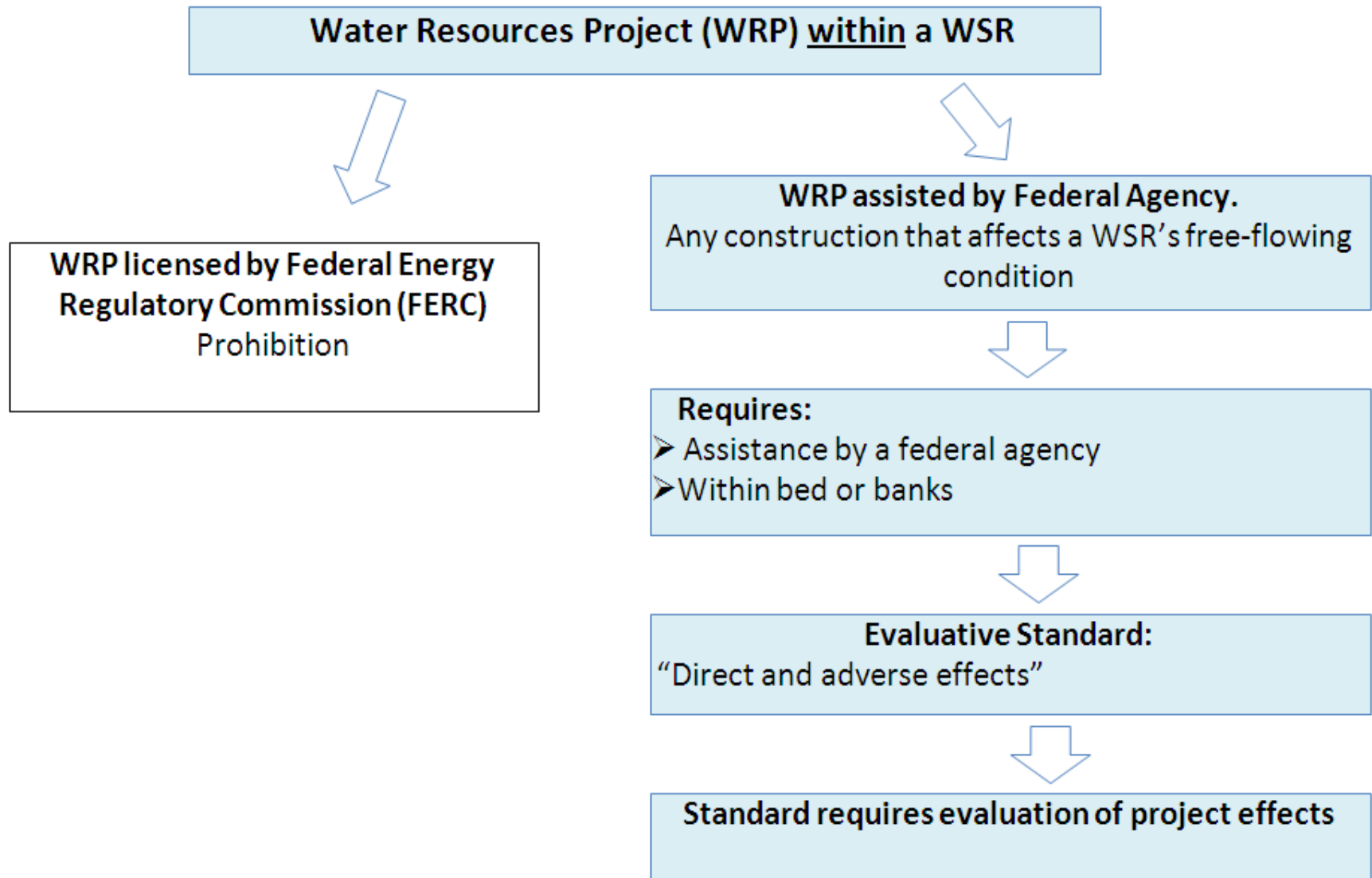
3) Determine the following:

Will **water resource project** have a **direct and adverse effect** within Wild and Scenic River Boundaries **Or**

Will **water resource project** **invade the area or unreasonably diminish** the river outside Wild and Scenic River Boundaries



WSRA Section 7(a) “Process” Flowchart



WSRA Section 7(a) “Process” Flowchart

Water Resources Project (WRP) outside a WSR



WRP assisted by Federal Agency.

Any construction within river's bed or banks upstream, downstream or on a tributary to WSR



Requires:

- Assistance by a federal agency
- Within bed or banks upstream, downstream or on a tributary
- Potential to affect free-flow or scenery, recreation, fish or wildlife values within WSR



Evaluative Standard:

“Invade the area or unreasonably diminish”



Standard requires evaluation of project effects on WSR

Section 7 Example

Scenario: A small community proposes to withdraw water from a designated river for domestic purposes.

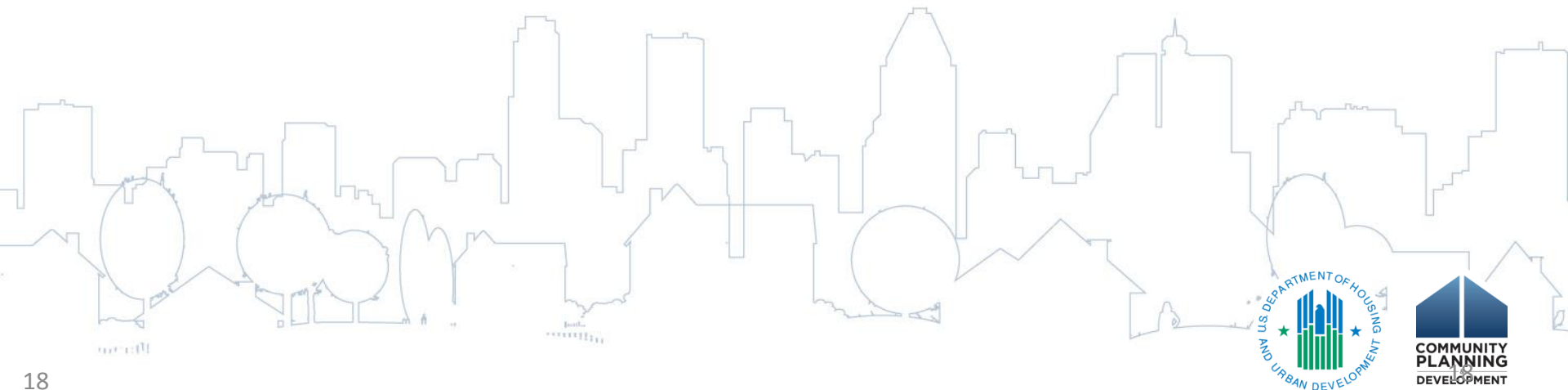
Response: Section 7 would apply if the project requires construction within the bed or banks of the designated river. The river-administering agency would address the volume of in-stream flow through section 13(c) of act.

Section 7 Compliance Steps

4) Consult with Administering Agency

Evaluation Procedures here:

<http://www.rivers.gov/rivers/documents/section-7.pdf>



Nationwide Rivers Inventory (NRI)

- Rivers eligible for Wild and Scenic designation
- Nationwide Rivers Inventory does not offer protection of the Wild and Scenic Rivers Act
- Federal Agencies must avoid or mitigate adverse effects
- National Park Service can assist



NRI Compliance Steps

- 1) Determine if your project is near a river on the Nationwide Rivers Inventory

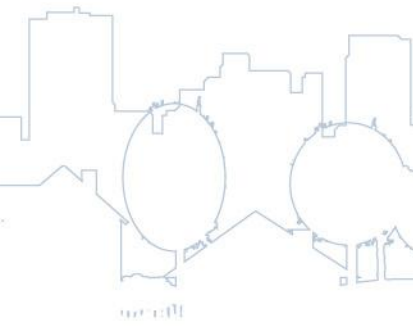
<http://www.nps.gov/ncrc/programs/rtca/nri/>

- 2) Determine if the proposed water resource project will have an adverse effect on the natural, cultural and recreational values of the segment



Nationwide Rivers Inventory

3) Determine whether the proposed action could foreclose options to classify any portion of the NRI segment as wild, scenic or recreation river areas.



Resources

- Wild and Scenic Rivers Act general resources:
<http://www.rivers.gov/rivers/>
- Section 7 Evaluation Procedures:
<http://www.rivers.gov/rivers/documents/section-7.pdf>
- Nationwide Rivers Inventory:
<http://www.nps.gov/ncrc/programs/rtca/nri>

Farmland Protection Policy Act (FPPA)



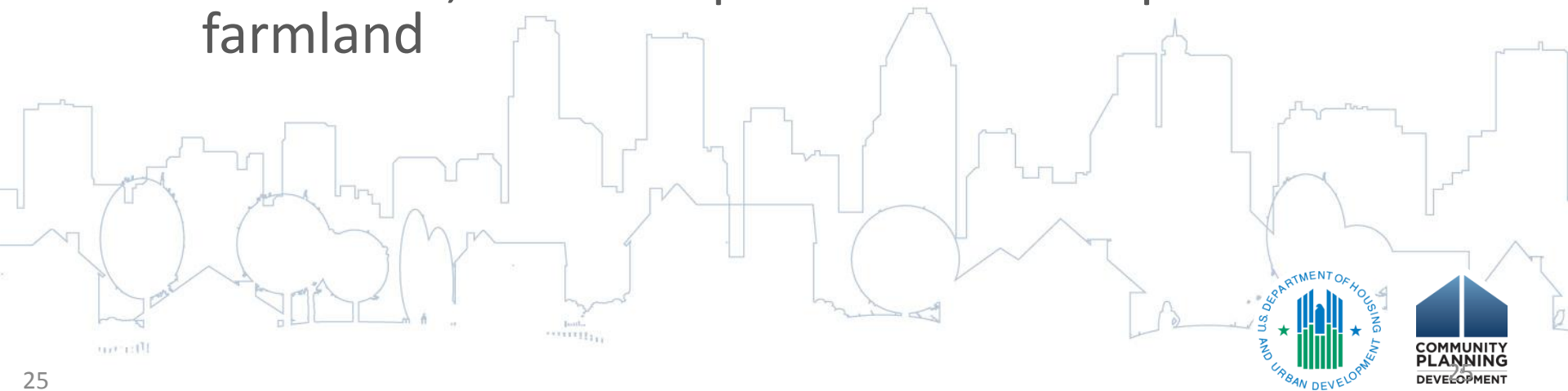
Farmland Protection Policy Act



Purpose of FPPA

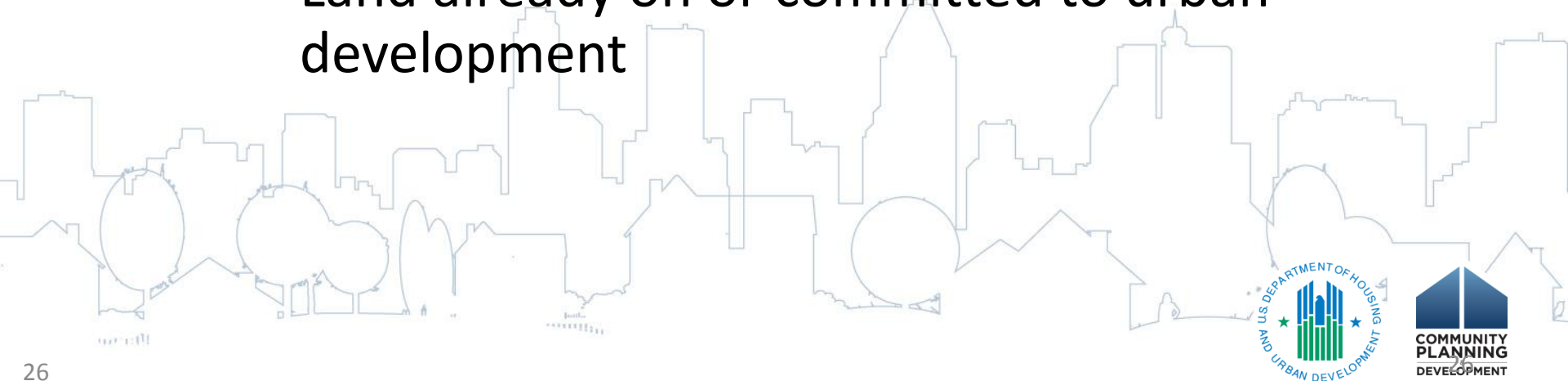
“minimize the extent to which Federal programs contribute to the unnecessary conversion of farmland to non agricultural use”

Stipulates that federal programs be compatible with state, local and private efforts to protect farmland



Exemptions

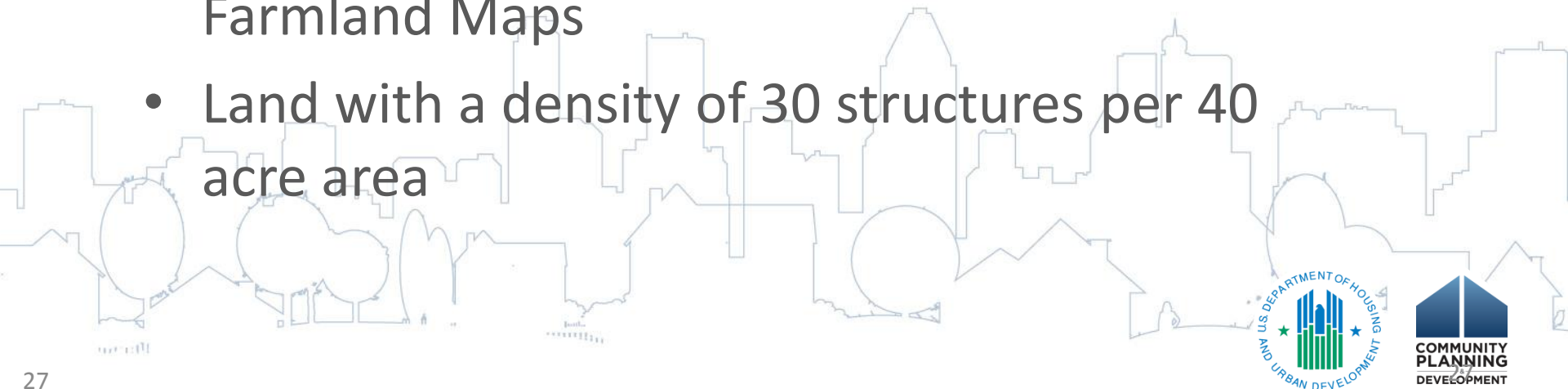
- Rehabilitation of existing units
- Minor secondary structures
- On farm structures for farm operation
- Land used for water storage
- Land already on or committed to urban development



Committed to Urban Development

Identified as :

- urban area (UA) on the Census Bureau Map
- urban area mapped with a “tint overprint” on the USGS topographical maps
- “urban built-up” on the USDA Important Farmland Maps
- Land with a density of 30 structures per 40 acre area



United States
Census
2010

TIGERweb (beta)

Geography Division



tigerweb.geo.census.gov/

- ☐ School Districts
- ☐ Places and County Subdivisions
- ☐ American Indian, Alaska Native, and Native Hawaiian Areas
- ☐ Legislative Areas
- ☐ Census Regions and Divisions
- ☐ Urban Areas
- ☐ Metropolitan and Micropolitan Statistical Areas and Related Statistical Areas



900km

1:36,978,595

500mi

United States
Census
2010

TIGERweb (beta)

Geography Division

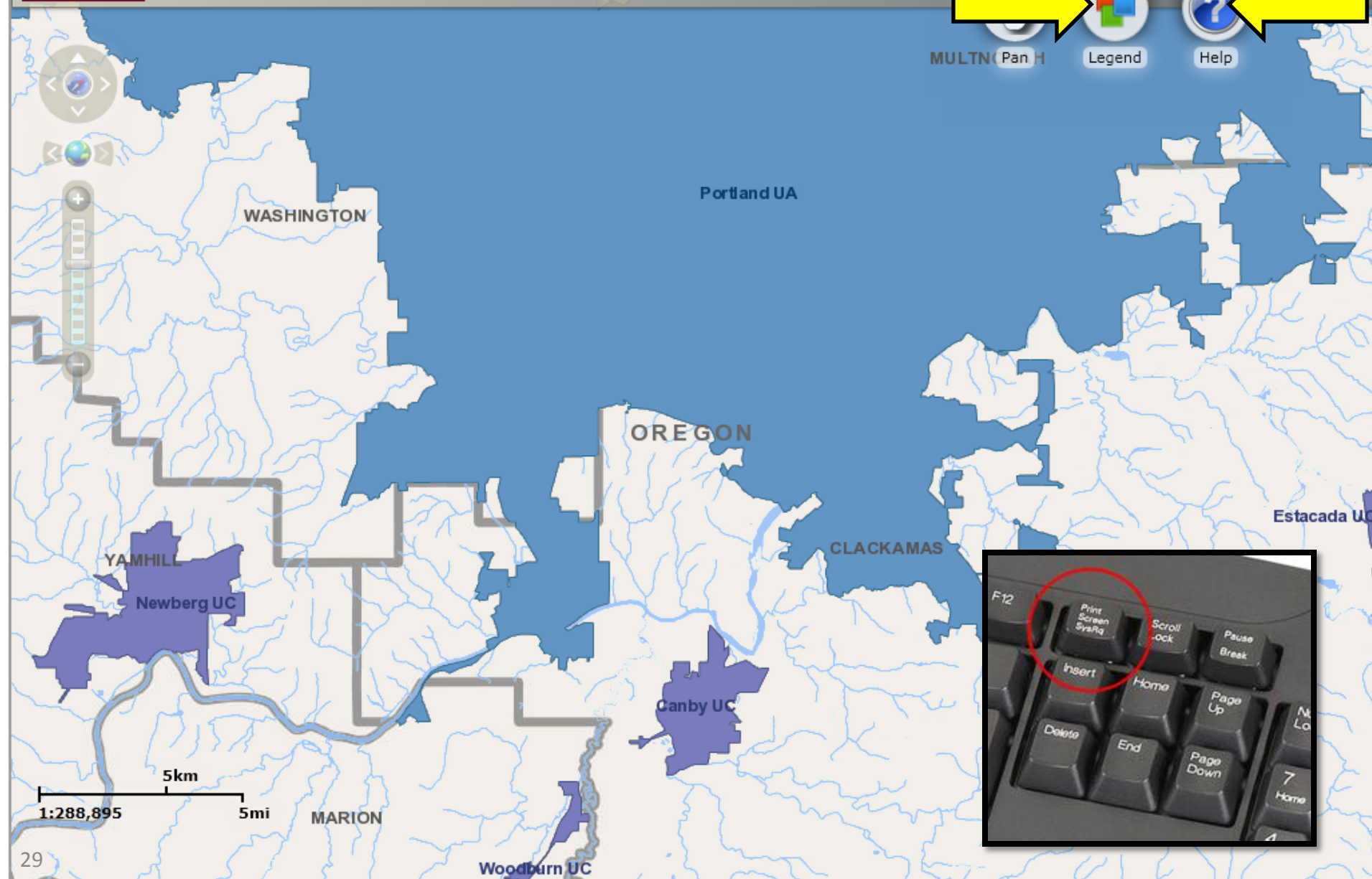


MULTI-Pan H

Legend



Help

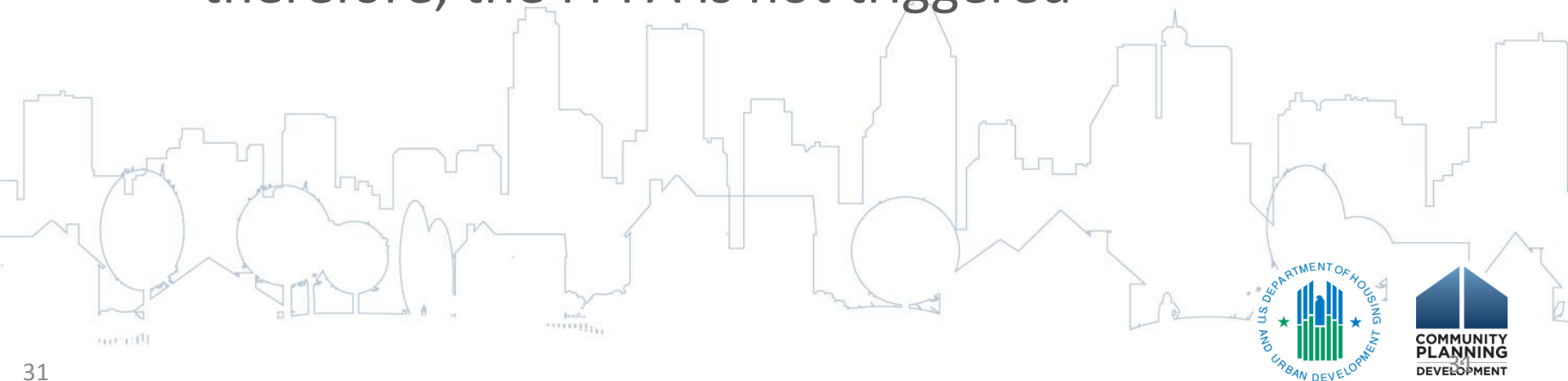


Land Density



Exemption Determination

- Maintain backup documentation in your ERR
- Determine that “the project does not convert agricultural land to non-agricultural land therefore, the FPPA is not triggered”

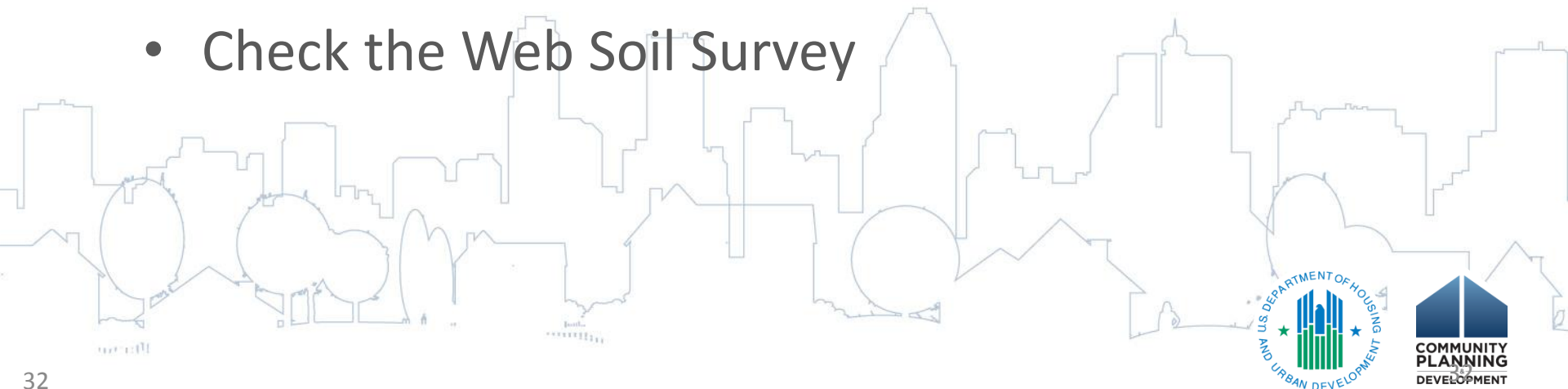


Important Farmland

Determine if there is “important farmland”
on site

Either

- Complete Sections I and III of AD 1006 and
Send with map to NRCS **OR**
- Check the Web Soil Survey



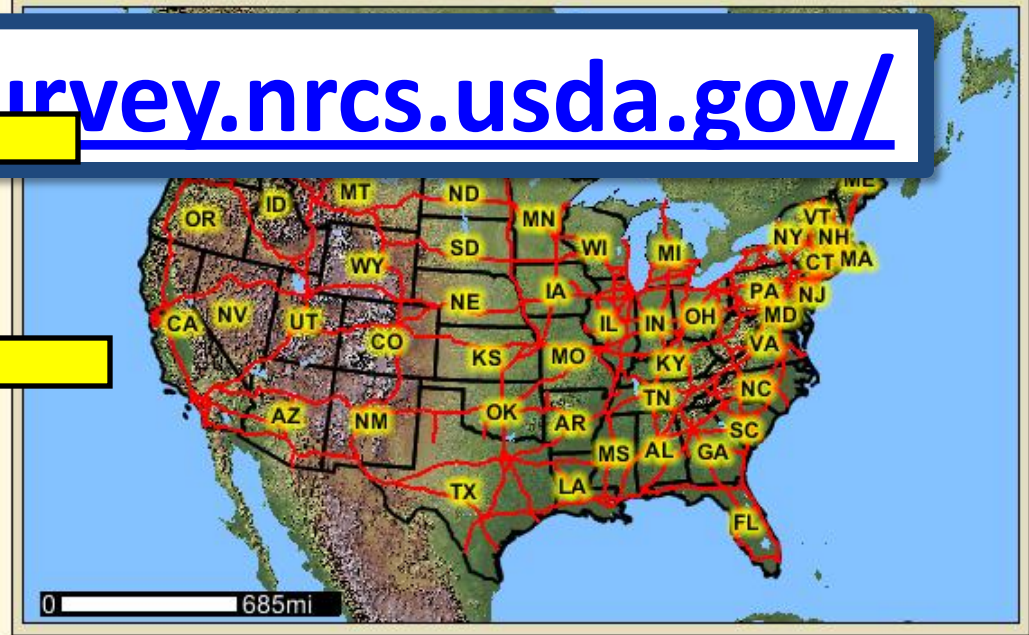
Area of Interest (AOI) ← Soil Data Explorer Shopping Cart (Free)

Search
Area of Interest
Import AOI
Quick Navigation
Address

Area of Interest Interactive Map
Legend
View Extent: Contiguous U.S.
Scale: (not to scale)

<http://websoilsurvey.nrcs.usda.gov/>

Show location marker ☒
View
State and County
Soil Survey Area
Latitude and Longitude
PLSS (Section, Township, Range)
Bureau of Land Management
Department of Defense
Forest Service
National Park Service
Hydrologic Unit



Area of Interest
(AOI)

Soil
Map

Soil Data
Explorer

Shopping
Cart (Free)

Search

Area of Interest

Import AOI

Quick Navigation

Address

View

Address

Show location
marker ☒

View

State and County

Soil Survey Area

Latitude and Longitude

PLSS (Section, Township, Range)

Bureau of Land Management

Department of Defense

Forest Service

National Park Service

Hydrologic Unit

Area of Interest Interactive Map



View Extent

Scale



[Area of Interest \(AOI\)](#) | [Soil Map](#) | **[Soil Data Explorer](#)** | [Shopping Cart \(Free\)](#)

View Soil Information By Use: [All Uses](#)

[Printable Version](#)

[Add to Shopping Cart](#)

[Intro to Soils](#) | **[Suitabilities and Limitations for Use](#)** | [Properties and Qualities](#) | [Ecological Site Assessment](#) | [Soil Reports](#)

Search

Suitabilities and Limitations Ratings

[Open All](#) | [Close All](#)

- [Building Site Development](#)
- [Construction Materials](#)
- [Disaster Recovery Planning](#)

Land Classifications

- [Conservation Tree and Shrub Group](#)
- [Ecological Site ID](#)
- [Ecological Site Name](#)

Farmland Classification

[View Description](#) | [View Rating](#)

View Options

Map ☒

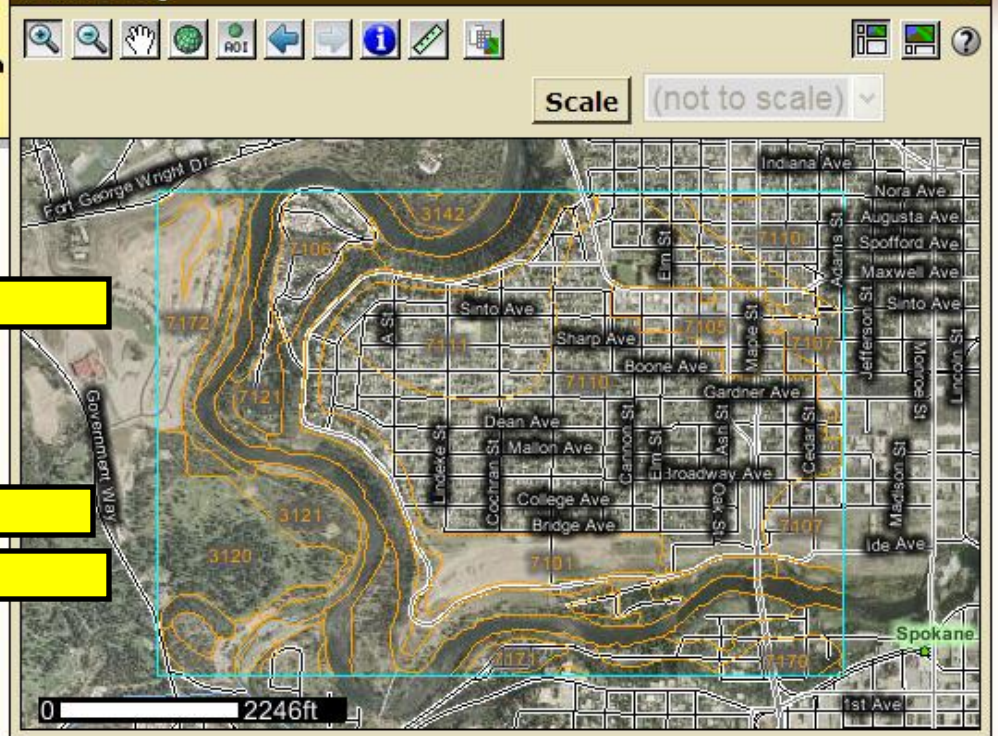
Table ☒

Description of Rating ☒

Rating Options ☒

Legend

Soil Map



[Area of Interest \(AOI\)](#) |
 [Soil Map](#) |
 [Soil Data Explorer](#) |
 [Shopping Cart \(Free\)](#)

View Soil Information By Use:

[Printable Version](#) |
 [Shopping Cart](#)

[Intro to Soils](#) |
 [Suitabilities and Limitations for Use](#) |
 [Soil Properties and Qualities](#) |
 [Ecological Site Assessment](#) |
 [Soil Reports](#)

Search

Suitabilities and Limitations Ratings

[Open All](#) |
 [Close All](#)

[Building Site Development](#) |
 [Construction Materials](#) |
 [Disaster Recovery Planning](#)

Land Classifications

[Conservation Tree and Shrub Group](#)
[Ecological Site ID](#)
[Ecological Site Name](#)

Farmland Classification

[View Description](#) |
 [View Rating](#)

View Options

☒ Map
☒ Table
☒ Description of Rating
☒ Rating Options

Legend

Map — Farmland Classification



Scale



Tables — Farmland Classification — Summary By Map Unit

Summary by Map Unit — Spokane County, Washington (WA063)

Form AD-1006

http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/AD-1006AD-1006.PDF - Windows Internet Explorer

http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/AD-1006AD-1006.PDF

File Edit Go To Favorites Help

Links »

1 / 2 102%

Comment

Please fill out the following form. You cannot save data typed into this form.
Please print your completed form if you would like a copy for your records.

Highlight Existing Fields

U.S. Department of Agriculture

FARMLAND CONVERSION IMPACT RATING

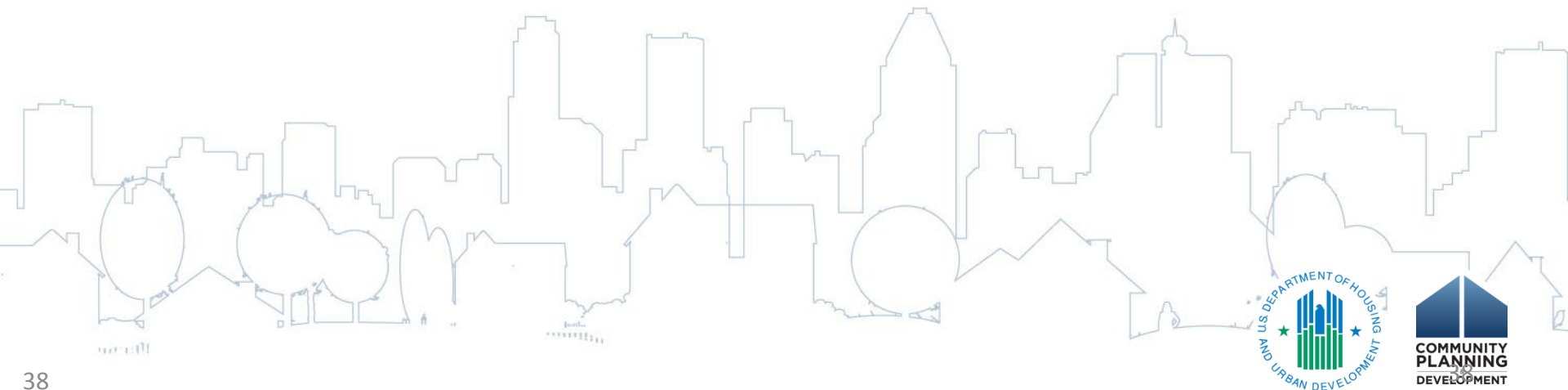
PART I (To be completed by Federal Agency)		Date Of Land Evaluation Request	
Name of Project		Federal Agency Involved	
Proposed Land Use		County and State county and state	
PART II (To be completed by NRCS)		Date Request Received By NRCS	Person Completing Form:
Does the site contain Prime, Unique, Statewide or Local Important Farmland? (If no, the FPPA does not apply - do not complete additional parts of this form)		YES <input type="checkbox"/> NO <input type="checkbox"/>	Acres Irrigated
			Average Farm Size
Major Crop(s)	Farmable Land In Govt. Jurisdiction Acres: %	Amount of Farmland As Defined in FPPA Acres: %	
Name of Land Evaluation System Used	Name of State or Local Site Assessment System	Date Land Evaluation Returned by NRCS	
PART III (To be completed by Federal Agency)		Alternative Site Rating	
		Site A	Site B
A. Total Acres To Be Converted Directly			
B. Total Acres To Be Converted Indirectly			
C. Total Acres In Site			
PART IV (To be completed by NRCS) Land Evaluation Information			
A. Total Acres Prime And Unique Farmland			
B. Total Acres Statewide Important or Local Important Farmland			
C. Percentage Of Farmland in County Or Local Govt. Unit To Be Converted			
D. Percentage Of Farmland in Govt. Jurisdiction With Same Or Higher Relative Value			



Determination

Important Farmland not on site

- Maintain backup documentation in your ERR
- Determine that “the project does not convert agricultural land to non-agricultural land therefore, the FPPA is not triggered”

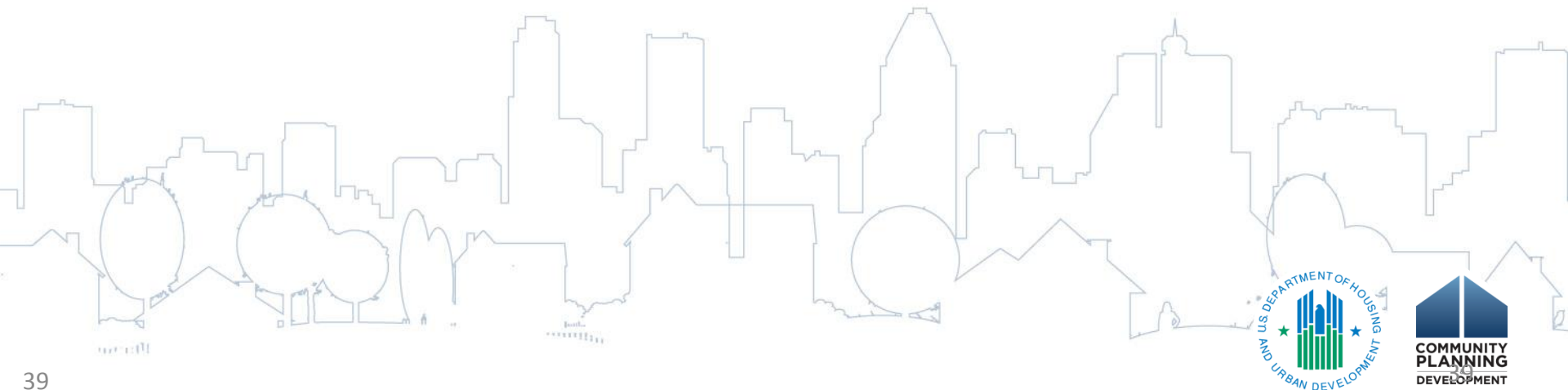


Determination

Important Farmland on site

Complete Form AD-1006 (Parts I, III, VI and VII)

Corridor projects require different form



Form AD-1006

http://www.usda.gov/rus/water/ees/pdf/ad1006.pdf - Windows Internet Explorer

http://www.usda.gov/rus/water/ees/pdf/ad1006.pdf

File Edit Go To Favorites Help Links »

Farmland Protection http://www.nnconserve.org... http://www.usda.gov/ru... x

1 / 15 102% Comment

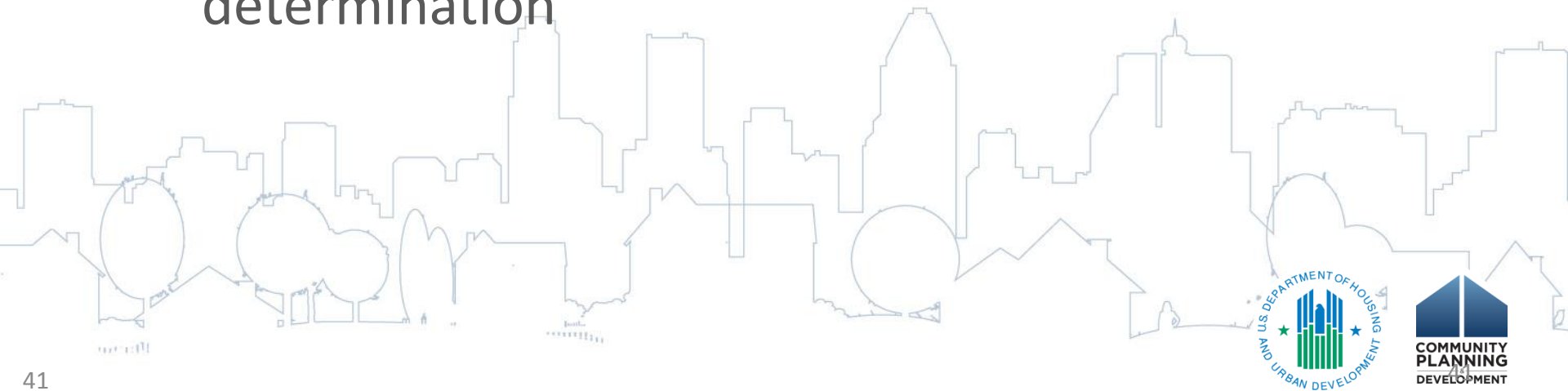
Please fill out the following form. You cannot save data typed into this form. Please print your completed form if you would like a copy for your records. Highlight Existing Fields

PART VI (To be completed by Federal Agency)		Maximum Points				
Site Assessment Criteria (These criteria are explained in 7 CFR 658.5(b))						
1. Area In Nonurban Use						
2. Perimeter In Nonurban Use						
3. Percent Of Site Being Farmed						
4. Protection Provided By State And Local Government						
5. Distance From Urban Builtup Area						
6. Distance To Urban Support Services						
7. Size Of Present Farm Unit Compared To Average						
8. Creation Of Nonfarmable Farmland						
9. Availability Of Farm Support Services						
10. On-Farm Investments						
11. Effects Of Conversion On Farm Support Services						
12. Compatibility With Existing Agricultural Use						
TOTAL SITE ASSESSMENT POINTS		160	0	0	0	0
PART VII (To be completed by Federal Agency)						
Relative Value Of Farmland (From Part V)		100	0	0	0	0
Total Site Assessment (From Part VI above or a local site assessment)		160	0	0	0	0
TOTAL POINTS (Total of above 2 lines)		260	0	0	0	0
Site Selected:	Date Of Selection	Was A Local Site Assessment Used?				
		Yes <input type="checkbox"/> No <input type="checkbox"/>				
Reason For Selection:						



Alternatives-Mitigation

- Combined score over 160 points requires evaluation alternate site
- Identify and comply with any mitigation
- Return copy of form to NRCS with determination



Once developed-it is gone forever



Resources

Farmland Conversion Impact Rating Form and

<http://www.usda.gov/rus/water/ees/pdf/ad1006.pdf>

NRCS

<http://offices.sc.egov.usda.gov/locator/app?agency=nrsc>

Corridor projects

<http://www.tn.nrcs.usda.gov/technical/soils/CPA106.pdf>

Web Soil Survey

<http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm>

Endangered Species Act



Photo credit: Joel Trick/USFWS



Key Terms

The ESA protects...

- Endangered species
 - Threatened species
 - Critical habitat
 - Proposed species
- } “Listed Species”

The ESA is carried out by...

- The Fish and Wildlife Services (FWS)
 - The National Marine Fisheries Service (NMFS)
- } “The Services”

Section 9

- Applies to public and private actors
- Prohibits “**take**”
 - harass
 - harm
 - pursue
 - hunt
 - shoot
 - wound
 - kill
 - trap
 - capture
 - collect
 - attempt
 - any of the above



Photo credit: Gary Kramer/USFWS



Section 7

Section 7(a)(1)

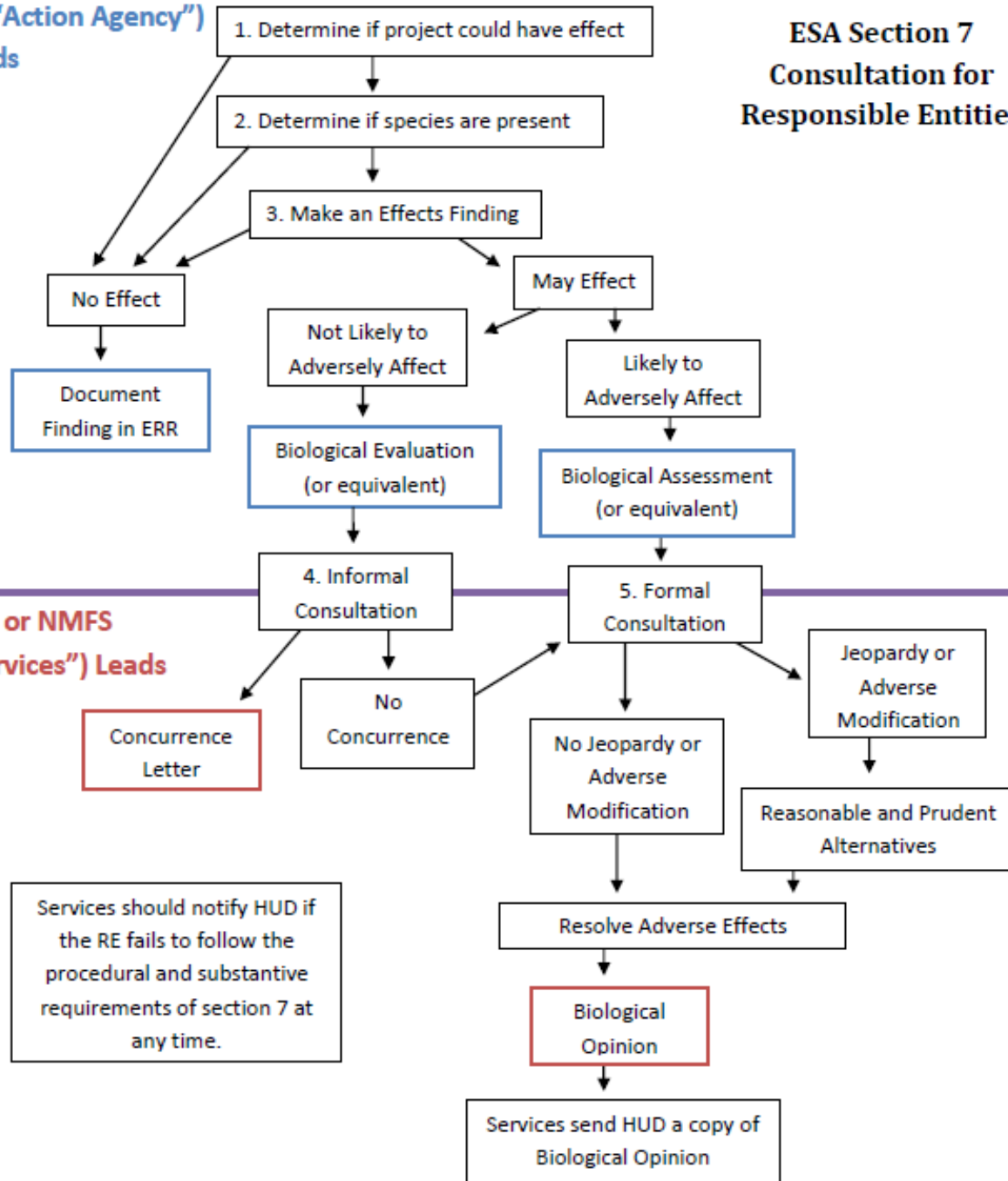
Federal agencies shall use their authorities to carry out their programs for the conservation of listed species.

Section 7(a)(2)

Federal agencies shall consult with the Services to ensure that their actions are not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat.

**RE ("Action Agency")
Leads**

**ESA Section 7
Consultation for
Responsible Entities**



**FWS or NMFS
("Services") Leads**

Services should notify HUD if the RE fails to follow the procedural and substantive requirements of section 7 at any time.

Step 1

Determine if project could have an effect on listed species

No effect projects: the activities involved have no potential to affect protected resources

If no, mark “No Effect” in ERR

- No need to consult



Photo credit: Shannon Downey/USFWS

Step 2

Determine if listed species and/or critical habitat are in the project area

- Obtain species list
- Resources:
 - Services' website and staff
 - Local fish and wildlife agencies, resource experts, colleges, etc.



Case Study



Step 3

Make an Effects Finding

No Effect

→ No need for consultation

May Affect, Not Likely to Adversely Affect

Effects are beneficial, discountable, or insignificant

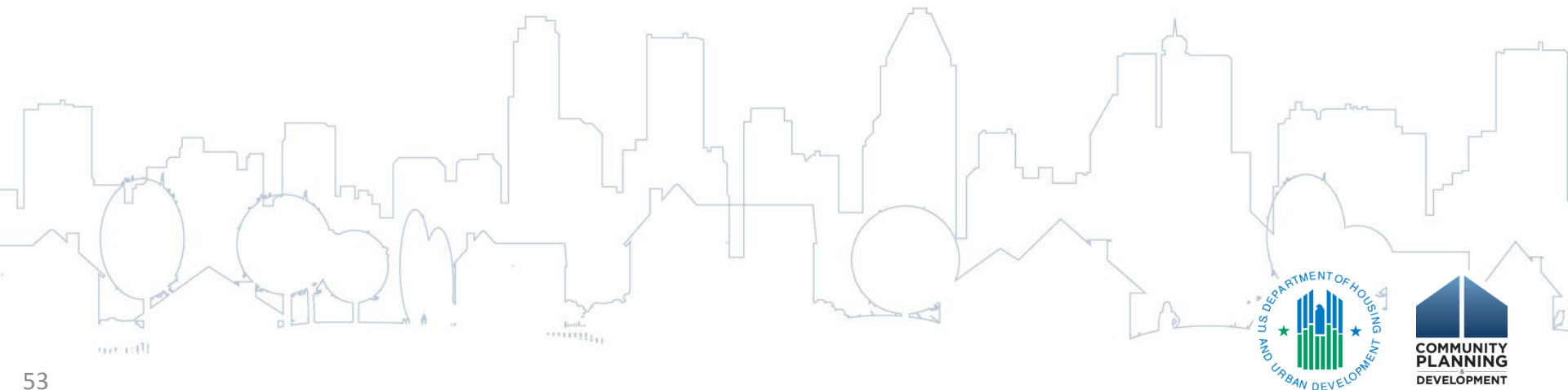
→ Proceed to Step 3, Informal Consultation

May Affect, Likely to Adversely Affect

→ Proceed to Step 4, Formal Consultation

Ways of Finding No Effect

- No effect project (step 1)
- No listed species or critical habitats (step 2)
- No potential habitat
- Local programmatic agreement
- RE's analysis



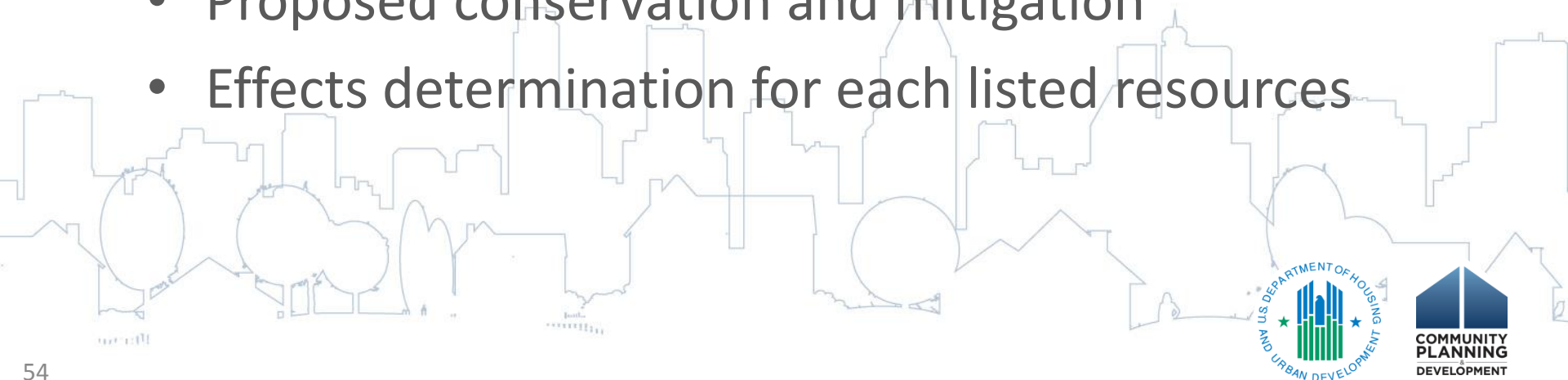
Biological Evaluation/Assessment

Thorough project description

- Include map

Analysis of potential effects:

- Listed species and critical habitats in area
- Possible effects (direct, indirect, and cumulative)
- Proposed conservation and mitigation
- Effects determination for each listed resources

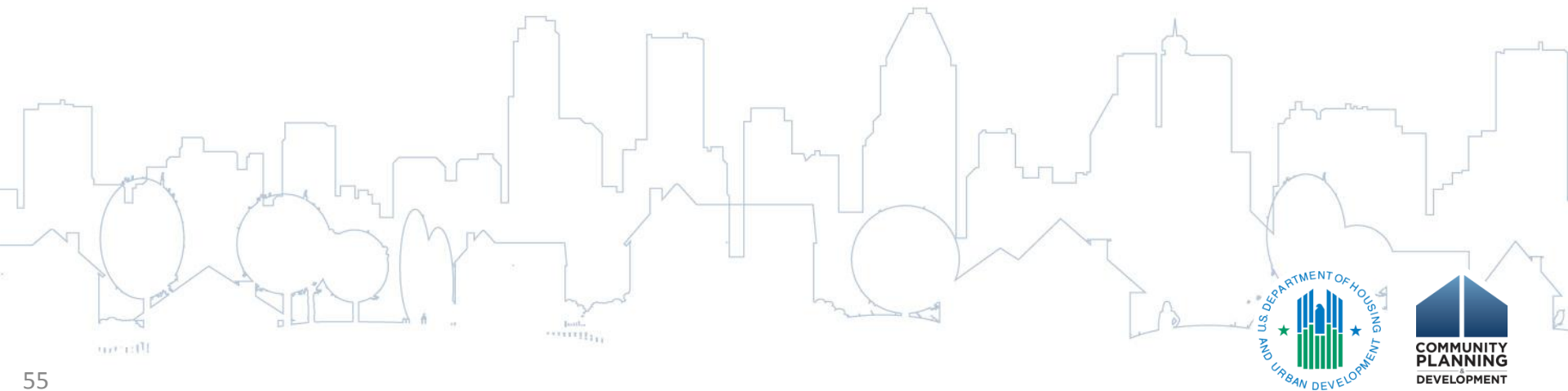


Step 4

Informal Consultation

Purpose:

- Define potential effects
- Explore ways of reducing or removing impacts
- Establish whether formal consultation is required

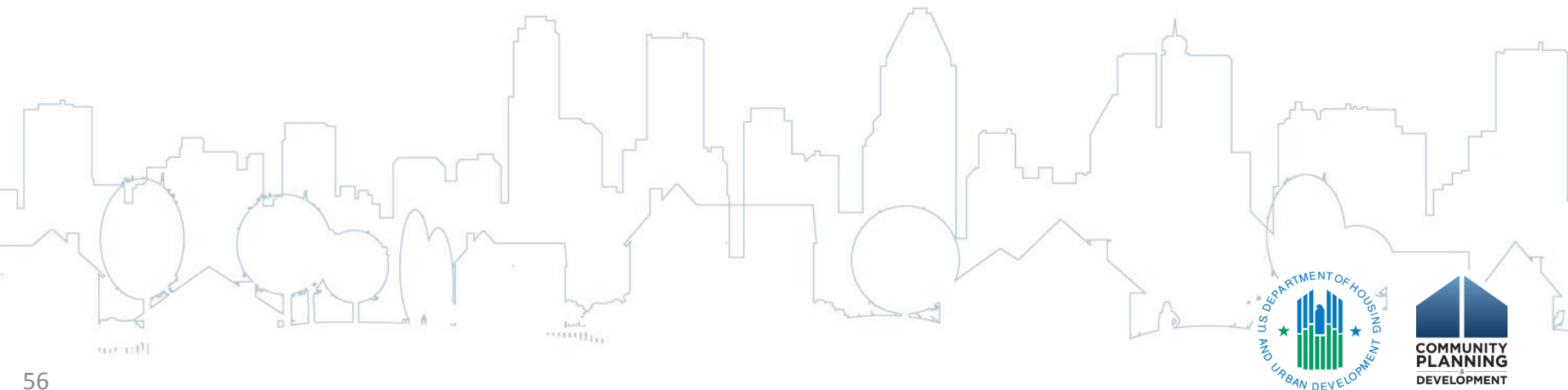


Step 4

Informal Consultation (cont'd)

Two possible outcomes:

- Concurrence
 - Proceed with project
- Finding of Likely to Adversely Effect
 - Proceed to formal consultation



Step 5

Formal Consultation

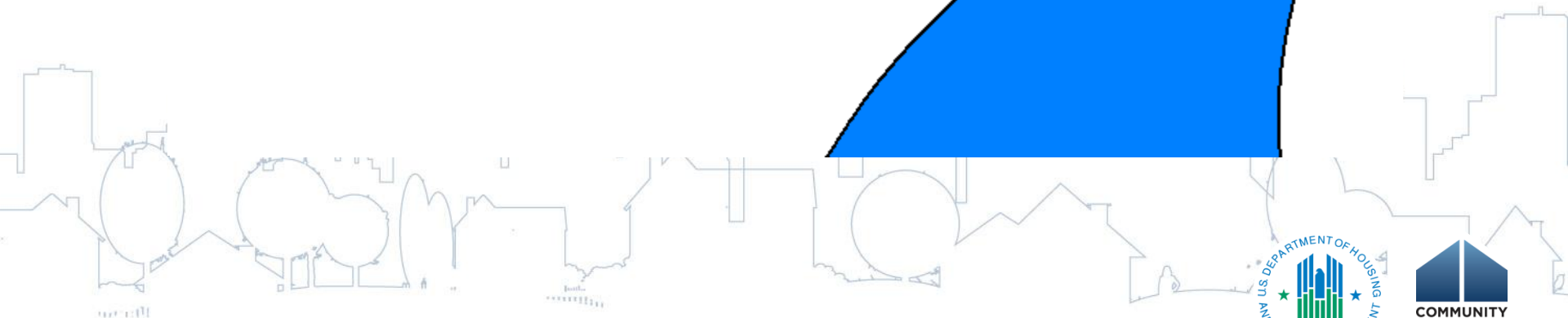
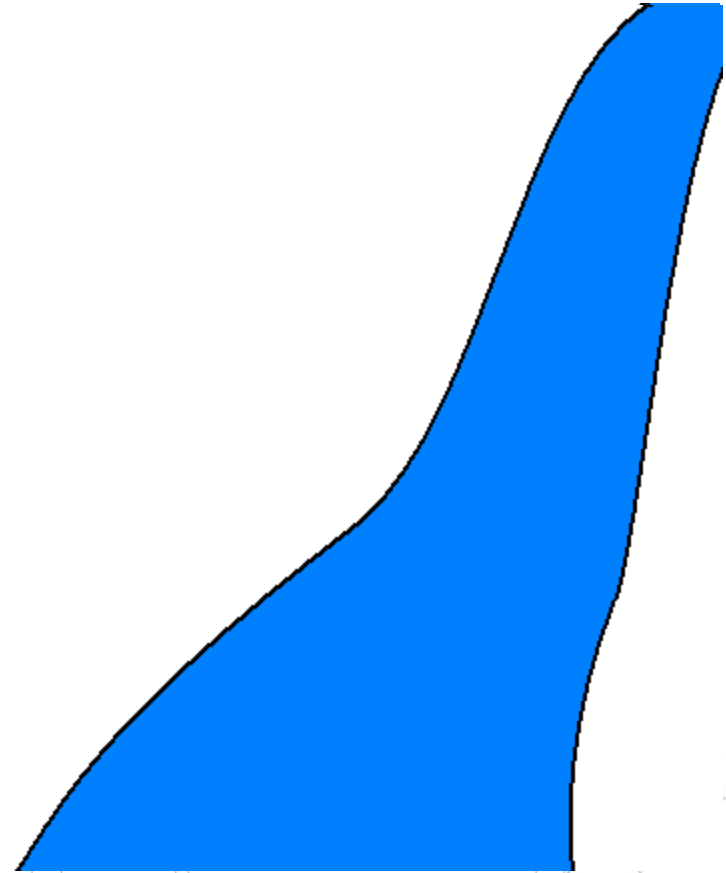
Purpose: to ensure that project is not likely to jeopardize listed species or destroy/adversely modify critical habitat

Only possible outcome: Biological Opinion finding no jeopardy or adverse modification

Biological Opinion

- Mandatory and recommended measures
- Incidental Take Statement

Case Study



Post Consultation

- Follow through on modifications and mitigating measures
- Reinitiate consultation if necessary



Photo credit: D. Severson/USFWS

Conclusion



Photo credit: Rich Keen/DPRA



Resources

- Services' Endangered Species resources:

<http://www.fws.gov/endangered/>

<http://www.nmfs.noaa.gov/pr/laws/esa/>

- Consultation Handbook:

http://www.fws.gov/endangered/esa-library/pdf/esa_section7_handbook.pdf

- Information, Planning and Conservation System (IPaC)

<http://ecos.fws.gov/ipac/>



Questions, Comments, Concerns

Sara Jensen

206-220-5226

Sara.Jensen@hud.gov

Deborah Peavler-Stewart

206-220-5414

Deborah.PeavlerStewart@hud.gov

Thank You For Participating

Liz Zepeda

202-402-3988

Elizabeth.G.Zepeda@hud.gov

